



Department of Justice

STATEMENT

OF

UNITED STATES MARSHALS SERVICE
DEPARTMENT OF JUSTICE

BEFORE THE

SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

CONCERNING

H.R. 1751,
THE SECURE ACCESS TO JUSTICE AND COURT PROTECTION ACT OF 2005

PRESENTED ON

APRIL 26, 2005

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UNITED STATES MARSHALS SERVICE
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Mr. Chairman, Congressman Scott, and Members of the Subcommittee, thank you for the opportunity to appear before you today. We appreciate the interest and support that you have given the United States Marshals Service in the past, and look forward to working with you in the future to address the challenges we face in preserving the judicial process.

Since its founding in 1789, the primary mission of the United States Marshals Service (USMS) has been the protection of the federal judicial process. The responsibility is not taken lightly; each and every day – in all 94 Marshals Service districts – 100% of our resources are fully dedicated to this mission.

The protection of judges and courthouses is one of the most important, but least understood, functions of American government. If federal jurists cannot preside over cases and render verdicts free from fear and intimidation in a safe environment, our citizens cannot expect the judicial system to function fairly and impartially. In short, without this protection, the nation would be deprived of its most cherished and fundamental right – justice.

While the “judicial security” mission traditionally has been defined as protection of federal judges and the physical protection of federal courthouses, the full resources of the Marshals Service are devoted to protection of the judicial process, in one or more of the following aspects:

- by providing a secure courtroom environment not only for the judiciary, but for all trial participants, including court employees, prosecutors, federal public defenders, jurors, witnesses, private attorneys, and all who attend federal trials and court proceedings;
- when necessary, by providing for the personal protection of members of the judiciary and their families, so that judges can carry out their official duties without fear of threat, intimidation, or retaliation;
- by applying complex, technical security systems to make the nation's federal courthouses safe from external threats;
- by contracting with and deploying thousands of experienced, well-trained Court Security Officers to screen the daily complement of visitors to our nation's courts;
- by designing and constructing secure facilities for the detention and movement of prisoners and creating secured passageways for the judiciary;
- by safely transporting thousands of federal prisoners to court appearances;
- by providing safe environments for thousands of federally-protected witnesses and their families; and,
- by executing warrants and arresting dangerous fugitives from justice and returning them to custody for proper adjudication of their criminal cases.

Protection of the judicial process is the Marshals Service's highest priority. The FY 2005 Budget provides the USMS with \$552 million for judicial protection activities, which is an increase of 5% over FY 2004 spending levels. This includes funding for 94 new Deputy U.S. Marshals for judicial security. The FY 2006 President's Budget requests \$586 million for USMS

judicial protection activities, which is a 6% increase over FY 2005. These funds will support 65 additional Deputy U.S. Marshals assigned to judicial security, bringing the total to 2,542. In addition, the Budget will support more than 3,800 contract security officers.

These resources, together with the skill and dedication of our personnel, allow us to achieve great successes. Each day, Deputy U.S. Marshals transport thousands of federal prisoners – some of whom are extremely violent – to their court appearances without major incident. Likewise, the Marshals Service currently handles more than 17,000 witnesses and their families in the Witness Protection Program. No federally-protected witness who has followed the program's rules has been harmed. Finally, in the 215 years since the USMS was founded, no federal judge has been murdered in a courtroom or courthouse. However, since we are aware of the vulnerabilities of the judicial family outside of the courthouse in an ever-changing threat environment, we continually review, evaluate, and improve our protective procedures.

The tragic deaths of the husband and mother of Judge Joan Humphrey Lefkow in Chicago, and of Judge Rowland Barnes and his court colleagues in Atlanta, have brought national attention to the issue of judicial protection. However, a distinction should be made between state and local practices, and the court security procedures that are in place within the Marshals Service. We welcome the opportunity to make these distinctions and discuss our procedures with the Subcommittee.

Protection and Security Services Provided to Federal Judges

The Marshals Service's attention to the personal security of a judge begins soon after he or she is nominated. Shortly after their nomination, the USMS provides all new federal judges with a comprehensive briefing regarding their personal security and the range of security

services offered by the USMS, both inside the courthouse and away from judicial facilities. These briefings are conducted at the highest level, generally by the USMS Assistant Director for Judicial Security himself.

Orientation and training topics include a variety of security issues, such as: personal and residential security, both inside and away from judicial facilities; arranging mail delivery to a judge's office rather than a judge's home; the application, installation, and upgrading of home security systems; ensuring that personal information is removed from the public arena, such as telephone directories and Internet sites; vehicle and air travel safety; and changes in landscape designs around the home. Judicial Security Inspectors also offer to undertake a residential security survey of a judge's home to assess a wide range of security issues.

Throughout their judicial careers, the USMS continues to provide security briefings in various situations and formats, including specialized publications and personal meetings with experienced Deputy U.S. Marshals who are trained as Judicial Security Inspectors. As long as they are on the bench, federal judges receive regular security briefings and surveys, covering every aspect of their professional and personal life. If a judge is threatened, the Marshals Service is there to provide appropriate protection – in their chambers, at their homes with their families, and everywhere in between. The importance that the Marshals Service places on this mission cannot be overemphasized.

Threat Assessments and Investigations Against the Judicial Family

In recent years, there has been an increase in the number of threats against members of the judiciary, U.S. Attorneys, and other federal court officers. One of the key functions of the USMS Judicial Security Division (JSD) is to review, assess, and investigate inappropriate

communications or threats made against members of the federal judiciary. Inappropriate communications can be made in writing, by telephone, verbally, through a third party, or by some suspicious activity, that threaten, harass, or make ominous or unsettling overtures of an improper nature. The USMS considers all threats to be inappropriate communications, but not all inappropriate communications necessarily are threats.

While the Marshals Service provides instructions to the judiciary about how to handle these communications, each is reviewed with an equal measure of concern. A primary factor considered by the Marshals Service is the assessment of whether or not the person making the threat has the means to carry out the threat. The ability of the USMS to assess and abate threats against the judiciary is directly related to its immediate capacity to obtain information and the identity of those who issue threats to the judiciary using the Internet and other means.

Each determination about providing increased levels of security to a court officer is assessed on a case-by-case basis, and decisions regarding security are discussed with the individual who is at risk. Protective details are provided both as a precautionary measure and when a determination of a credible threat has been made. In either instance, an immediate response is the establishment of a 72-hour protective detail, during which the USMS notifies the FBI and initiates a protective investigation. Predicated on the findings of that investigation, the USMS will adjust the scope of the protective detail according to the nature of the threat in terms of human resources, deployment of technologies, duration, and scope. As in the decision to apply increased security, any decision to decrease security measures, once implemented, is discussed with the protectee. Virtually all precautionary details are maintained around-the-clock for the first 72 hours; some are continued in this manner after the initial threat investigation is completed.

In fiscal year 2004, the Marshals Service monitored and managed 39 protective details for federal judges and Assistant U.S. Attorneys as a result of inappropriate communications or potential threats. Additionally, the Marshals Service reviewed and assessed more than 700 inappropriate communications.

Courthouse and Courtroom Security

The Marshals Service's Judicial Protective Services (JPS) program within JSD has primary responsibility for ensuring the protection of the judiciary, court officers, and all who visit federal court buildings. JPS determines resource needs, and develops and enhances program operations and contract requirements for the thousands of Court Security Officers (CSOs) who are the first line of defense inside all federal courthouses and those areas of federal buildings where the court family has a dominant presence. JPS also provides day-to-day operational guidance to the United States Marshals, senior inspectors, and senior deputy marshals in each of the 94 Marshals Service district offices.

The USMS deploys more than 4,500 contracted CSOs, all with certified law enforcement experience, to more than 400 court facilities in the United States and its territories. The CSOs screen visitors and packages to detect and deter the introduction of weapons, explosives, and other prohibited items into the courthouse. In addition, these security personnel operate perimeter security barriers that are designed to protect the facility from external vehicular threats.

Coordinating with the Administrative Office of the United States Courts (AOUSC), the General Services Administration (GSA), and the Department of Homeland Security's Federal Protective Service (FPS), the USMS is involved with the planning, design, and analysis aspects associated with the construction or renovation of federal courthouses. These activities include

the acquisition and installation of electronic security systems (such as perimeter security barriers and systems, access control systems, closed circuit television surveillance, and alarm reporting systems), and the analysis and design of secured passageways not only for the judiciary, but also for prisoner movements and detention facilities within judicial facilities.

While Deputy U.S. Marshals are responsible for producing prisoners for their court appearances, depending on the type and nature of a judicial proceeding, they also may be assigned to provide security within the courtrooms. There are times when the USMS must develop special security plans for judicial proceedings that are categorized as high-risk. These proceedings generally involve international or domestic terrorists, drug kingpins, violent gang members, or organized crime figures. In some cases, the proceeding may involve a civil matter that has garnered a high degree of notoriety. In such high-risk cases, the USMS may deploy members of its Special Operations Group (SOG) or Hazard Response Unit (HRU), both of which are specially trained to transport high-risk prisoners and protected witnesses.

Coordination with the Administrative Office of the United States Courts

The USMS works closely on a day-to-day basis with the AOUSC's Office of Court Security, and the Office of Facilities and Security. In addition, the USMS regularly works with the Judicial Conference's Committee on Security and Facilities. Coordination, cooperation, and consultation occur on the national level, and on a nation-wide basis at the district level.

With regard to coordination with the AOUSC on a national level, the USMS participates in a series of meetings and working sessions in preparation for quarterly reviews led by the AOUSC's associate director. In these meetings, a wide variety of issues are discussed, such as the purchase and installation of security systems, including x-ray machines and magnetometers;

entry security packages for judicial chambers; Court Security Officer staffing; procurement and budget issues; and union and wage determination issues and lawsuits.

The USMS also works with the Judicial Conference's Committee on Security and Facilities. The committee has established semi-annual meetings, which the senior management of the USMS routinely attends. Presentations regarding USMS budget issues are formally made to the committee, legal issues are discussed, and any security issue that the committee has becomes part of the agenda. For example, working within an annual budget of approximately \$300 million, each year the Marshals Service prepares a national complex budget formulation to determine the number of Court Security Officers and the types and the amount of security systems that are needed to protect the physical security of judicial facilities nation-wide. The results of the budget formulation process are presented to the judiciary, which in turns finalizes the budget request to Congress. The USMS works continuously with AOUSC and the committee throughout any given year to address issues not resolved at any of the scheduled meetings.

With regard to coordination at the local level, U.S. Marshals routinely attend scheduled Court Security Committee meetings led by the Chief Judge of the District. The U.S. Marshal is the principal coordinator of the committee, which also includes representatives from the magistrate, district, and bankruptcy courts, and also may include circuit judges and U.S. Attorneys. District-wide security issues are discussed in the meetings of the committee; security plans are reviewed and implemented; and local security issues are identified and solutions are recommended. The security topics discussed by the district committees cover a wide range of topics that are pertinent to the entire judicial family, including judges, chamber staffs, clerks, public defenders, librarians, and probation and pre-trial services, among others. Issues not

addressed locally are forwarded to the AOUSC's Office of Court Security and the U.S. Marshals Service headquarters for the determination of a coordinated resolution. Such issues may include, for example, additional CSO staffing, the need for additional security equipment between budget cycles, or legal issues affecting security.

Technical Support and Capabilities

In many cases, the USMS deploys technical countermeasures to protect persons and environments from electronic interception of official communications. Such technologies may involve, but are not limited to, conducting electronic security sweeps of federal court facilities, judicial officials' chambers, jury rooms and, in some cases, the residences of judicial officials. Also, the USMS will install electronic security systems and equipment in the residences of protectees in direct support of a protective detail.

Response to the Department of Justice Office of Inspector General Audit

In March 2004, the Department of Justice Office of Inspector General (OIG) issued a report entitled "Review of the United States Marshals Service Judicial Security Process." In that report, the OIG made recommendations to the USMS.

The USMS is on target to implement all of the OIG recommendations. Out of the six recommendations, most were related to policy updates and modifications. None of the findings of the OIG report found any instances wherein the USMS failed to provide adequate security for the judiciary.

The OIG recommendations and the implementation status are as follows:

- We have instituted rating criteria to identify, assess, and prioritize all inappropriate communications to ensure that all threats to the judiciary are assessed within established time frames. Other policy revisions may result from the Attorney General's comprehensive review of judicial security.
- We have merged our historical threat database with the Justice Detainee Information System (JDIS). JDIS includes warrant information to which all 94 district offices have electronic access.
- All Chief Deputy Marshals have updated Top Secret clearances and all 94 district offices have secure communications equipment.
- We have established an Office of Protective Intelligence (OPI) to analyze and disseminate protective intelligence related to the safety and security of the judiciary. While OPI received formal organizational approval in February 2005, the availability of resources will determine the rate of progress with regard to staffing the office.
- We have 18 Deputy Marshals working full-time on the FBI's Joint Terrorism Task Forces (JTTFs). Another 33 Deputy Marshals work part-time on the JTTFs.
- The USMS also has assigned criminal investigators to the National Counterterrorism Center, the FBI National Joint Terrorism Task Force, and the Department of Homeland Security.
- We have revised and distributed two publications to all 94 districts: *Offsite Security for United States Judges* (September 2004) and *Personal Security*

Handbook: How You and Your Family Can Minimize Risks to Personal Safety
(September 2003).

- Our Judicial Security personnel offer to provide judges with security surveys of their personal residences as well as additional counseling on how to enhance their personal security.

The USMS Fugitive Apprehension Mission and Its Impact on Judicial Security

While Deputy U.S. Marshals have been arresting criminals since the Service was established in 1789, the fugitive apprehension mission was formalized in the early 1970's. Since that time, deputies have been executing arrest warrants of federal courts throughout the U.S. The fugitive apprehension mission is directly related to the successful operation of the court in the administration of justice.

Deputies assigned the duties of warrant execution are not taken away from court security responsibilities. In many districts, these deputies are specifically assigned the warrant execution function. During special warrant execution initiatives (such as the recently-completed **Operation FALCON**), the deputies assigned court security functions perform this warrant execution function after court operations are concluded or on weekends.

The Chicago and Atlanta Incidents

While the judicial protection mission of the USMS was not directly connected to either the tragic events surrounding the murder of the mother and husband of Judge Lefkow, or the equally disturbing courtroom murder of Judge Barnes, the Marshals Service responded immediately in both incidents. In Chicago, the USMS responded within hours by providing a 24-hour protection detail for the Judge, her four daughters, and step-daughter. In addition, the

Marshals Service established four other protective details on three circuit court judges and one district court judge, based upon threat information that was received. As of this date, two of these judges remain under protection due to possible threats.

Concurrent with the establishment of the protection details, our USMS Great Lakes Regional Fugitive Task Force, in conjunction with the Chicago Police Department and the FBI, established a 24-hour investigative team to track down the person responsible for this heinous act. A 24-hour investigative command post was set up and staffed with deputy marshals and members of the law enforcement community. During the investigation, the Marshals Service utilized our resources by:

- Obtaining and analyzing telephonic records from the Judge's residence;
- Obtaining several dozen court orders for telephonic, location, routing data, and subscriber information;
- Providing tactical communications for security details of several members of the judiciary;
- Providing covert video surveillance;
- Conducting interviews of suspects; and,
- Conducting surveillances of suspects.

On March 9, 2005, we received information that Bart Ross was stopped by police in West Allis, Wisconsin, for a traffic violation and subsequently committed suicide via a gunshot wound to the head. Marshals Service personnel were deployed to the scene and secured and reviewed the evidence. As we know now, a search of Ross' home in Chicago resulted in a significant amount of physical evidence linking him to the death of Judge Lefkow's family.

Likewise, within hours of the courtroom attack in Atlanta, the USMS Southeast Regional Fugitive Task Force (SERFTF) was deployed to assist local law enforcement in its investigation and pursuit of Brian Nichols. Together with deputy U.S. Marshals from the Northern District of Georgia, the Task Force assisted the Fulton County Sheriff's Office at the crime scene and manned the Fulton County Emergency Operations command center. The USMS Technical Operations Group (TOG) was designated to handle all electronic surveillance measures relating to the search for Brian Nichols and SERFTF investigators were deployed from both the Atlanta and Macon offices to assist with interviews and surveillance.

Judicial Security Review Working Group

The rule of law depends on judicial officers being free to issue decisions based solely on the law. Judges and other participants in the judicial process, including prosecutors, defense counsel, witnesses, and court staff, must be and feel secure in their ability to uphold the law. It is unacceptable to our nation that participants in the process fear for their safety on account of their participation in the process. The Department of Justice, as both a litigant and law enforcement agency, takes its responsibilities to ensure the security of the judicial process with the utmost seriousness of purpose and commitment.

In the wake of the murders of Judge Lefkowitz's husband and mother and the shooting in the Fulton County, Georgia, courthouse, the Attorney General established a Judicial Security Review Group within the Department of Justice and directed this group to report back to him by the end of May outlining a set of best practices for judicial security and a set of recommendations the group may choose to submit. The review group's membership includes representatives from the Marshals Service, the Bureau of Prisons, the FBI, a United States

Attorney, and the Department's Criminal Division, Office of Legal Policy, Office of Legislative Affairs, and Office of the Deputy Attorney General.

While the review group is composed of Justice Department components, we recognize that it must work closely with the judiciary on issues of judicial security. Further, we understand that the review group's chairman has met with representatives of the Judicial Conference and the AOUSC, and that the initial meeting (after its organizational meeting) of the full review group was with representatives of both entities. While the work of the review group is ongoing, the expectation is that it will conclude its discussion and report back to the Attorney General within the established time frame.

In addition to the Attorney General's creation of the internal review group, the Office of Justice Programs has provided funding of \$100,000 to the National Center for State Courts, which is leading a study of judicial security in state and local courts. Together, the Department expects that these two initiatives will result in improved judicial security at the federal, state, and local levels.

Conclusion

In summary, Mr. Chairman and members of the subcommittee, the Marshals Service takes the security of our judges and federal courthouses very seriously because we know that we are protecting not merely a person or a building, but ultimately America's right to equal justice under the law. We are fully committed to fulfilling this mission and meeting the challenges that we face now and in the future.